K.

Home (194) Department.

(12) M.S. SERIES.

G.O. No. 782

Dated 17-2-1941

[Despatch Abstract.]

Establishment – South Kanara District – District Court – Clerk A.J. Menezes – investigation arrears claims by the Accountant General – ordered

C.F. 30.

DEPARTMENT.

Received ..... 19 . Registered 1774 E 19

ASSISTANT SECRETARY TO GOVT. 21 JAN 1941 HOME DEPARTMENT

21.1.41.

Subject.

Enclosures.
No. .....
.....
Spare copies .....

R.O.C. No. 4104/40-D2.

Station Madras, Dated the 16th January 1941.

From (Name) K. N. Ganpati Esq., B.A., Bar-at-law,

(Designation) Deputy Registrar, High Court, (Appellate Side)

To The Secretary to the Government of Madras,

HOME Department.
(with enclosures)

Sir,

Arrears of pay - claim for - A. I. Minezes - Clerk - District Court - S. Kanara - Investigation by the Accountant-General, Madras - recommended.

I am directed to forward letter Dis. No. 6306 dated 17-11-40 and the enclosures thereto, in original from the District Judge of South Kanara on the above mentioned subject, and to request that the Government may be pleased to authorise the Accountant-General, Madras, to investigate the claim of the

individual in question.

I have the honour to be,

Sir,

Your most obedient servant,

DEPUTY REGISTRAR,
Appellate Side.

PA

R F D.—80 b

FINANCIAL DEPARTMENT.

3

Received ..... 191 , *Registered* 191

Subject.

Minezes A.I. Clerk, District Court - Claim for arrears of pay - Investigation requested

4104/D

ENCLOSURES.
No. Service Register + Detailed Statement + 4 Supplemental bills + 4 Increment certificates + 4 Explanatory memos.
Spare copies .....

Above below

No. 6306/18.11.40

Station Mangalore , *Dated the* 17th November 1940 191

From (Name) T.S.Ramachandran Esq., M.A., B.Sc.(Hons)., I.C.S. Barrister-at-Law.,

(Designation) District Judge of South Kanara,

Mangalore.

To the Chief Secretary to the Government of Madras

M a d r a s.

Through the Registrar of the High Court of Judicature, Madras.

Sir,

I have the honour to state that A.I.Minezes, Clerk, District Court, South Kanara, was a permanent amin, District Munsif's Court, Udipi, and was officiating as Examiner on Rs. 35/- in the time-scale Rs. 35-1-40 in the District Munsif's Court, Udipi, during the period from 4-7-1932 to 3-2-1933, as clerk on Rs. 35/- in the time-scale 35-35-1½-50-1-60 from 4-2-1933 to 21-4-1933 and again as Examiner from 22-4-1933 onwards. He was thus eligible to an increment of Re. 1/- as Examiner from 4-7-1933 but this was not drawn under a misconception that his service as officiating clerk from 4-2-1933 to 21-4-1933 did not count for increment as Examiner.

Cf. para 2, position

4 cf. para 3 - p5 infra

2. Again, while he was still a permanent amin and officiating as Examiner on Rs. 36/- he officiated as clerk on Rs. 35/- from 25-10-33. He was confirmed retrospectively as Examiner from 11-7-1933. He was thus eligible to his salary being fixed at Rs. 36-8-0 in the time-scale 35-35-1½-50-1-60 as officiating clerk from 25-10-1933. It was not fixed at that rate from 25-10-1933.

3. On 20-12-1934 he had applied to the District Munsif, Udipi for his salary being fixed at Rs. 36-8-0 from 25-10-1933. But it was not so done. Again on 1-6-1936 he prayed that the increment of Re. 1/- may be drawn for him as Examiner from 4-7-1933 and that his pay as officiating clerk may be fixed at Rs. 36-8-0 from 25-10-1933. The District Munsif then ordered that no action was necessary on the ground that the amount involved was very small.

cf. paras 3 & 5 p6 infra

4. The dates of detection of the under-payment brought to the notice of the head of the office for purposes of payment of arrears of pay have been fixed as 1-6-1936 so far as the drawal of increment from 4-7-1933 is concerned and as 20-12-1934 so far as the fixation of pay at Rs. 36-8-0 from 25-10-1933 is concerned.

5. The Accountant General was requested in this Court letter (copy enclosed) to investigate the claim for arrears of pay and his reply (copy enclosed) is that the sanction of Government is necessary for such investigation.

p5 & 6 infra

p7 infra

6. The clerk's service register together with four supplemental pay bills making a claim for arrears of pay on behalf of the clerk are submitted herewith.

places below

(J)

7. I consider that the clerk should not be denied the payment of the arrears of pay.

8. I recommend that the Government may be pleased to authorise the Accountant General to investigate the claim now made on behalf of the above clerk.

I have the honour to be,
Sir,
Your most obedient servant,

17.11.40

District Judge, S.Kanara.

25

Copy of letter Dis. No. 5796/40 dated the 25th October 1940 from the District Judge, South Kanara, to the Accountant General, Madras.

Subject:- Minezes A.I. Clerk, District Court - Claim for arrears of pay on behalf of - investigation requested.

Reference:- Your letter No. 512/T6 S.K.1 dated the 1st November 1939.

(J) Pp1-2

I have the honour to forward herewith a detailed statement showing the claim for arrears of pay made on behalf of the above clerk togetner with (1) His service register (2) Supplemental pay bill of the Copyist Establishment, District Munsif's Court, Udipi, for July 1933 to October 1933, November 1935 and April 1936, (3) Supplemental pay bill of the Regular Establishment of the District Munsif's Court, Udipi, for October 1933 to October 1934 and September 1935 to November 1935 (4) Supplemental pay bill of the Regular Establishment of the Sub Court at Mangalore for the months of June and July 1936, (5) Supplemental pay bill of the Regular Estaolishment of the District Court for the months of December 1935 to March 1936 and August 1936 to September 1940 and increment certificates.

Pp3-7 (J) Pp13-17 (J) Pp22-28 (J) Pp31-45 (J) Pp9,21,30&40

2. The above clerk was first appointed as amin, District Munsif's Court, Udipi, in the time-scale of Rs. 28-1-35 from 21-6-1930. He was appointed officiating Examiner in the time-scale of Rs. 35-1-40 from 4-7-1932 to 3-8-1933, as officiating clerk in the time-scale of Rs-35,35-1-50-1-60 from 4-8-1933 to 21-4-1933 and again as Examiner in that Court from 22-4-1933 onwards. Though he completed one year's service as Examiner and Clerk on 3-7-1933, increment of Re. 1/- was not drawn for him as Examiner from 4-7-1933 but was drawn only from 22-9-1933 under a misconception that his service as officiating clerk from 4-8-1933 to 21-4-1933 did not count for increments as Examiner.

3. Again, while he was still a permanent amin and officiating Examiner on Rs. 36/- he was appointed as officiating clerk on Rs. 35/- from 25-10-1933. In the meantime, by an order dated 25-7-1934 he was confirmed as Examiner on Rs. 36/- retrospectively from 11-7-1933. Though thus he was eligible to Rs. 36-8-0 as officiating clerk from 25-10-1933.

pay at that rate was not fixed for him from that date but was fixed only from 1-7-1934.

4. On 20-12-1934 he put in an application to the District Munsif, Udipi praying that by reason of his substantive pay as Examiner being Rs. 36/- on 25-10-1933, his pay as officiating clerk may be fixed from that date at the next higher stage in the time-scale of Rs. 35, 35-1½-50-1-60, viz., Rs. 36-8-0-. The District Munsif, Udipi, sought instructions in the matter from the Accountant General. The Accountant General in his letter No. Jus. 1-526 dated 12-3-1935 replied that the clerk can be paid his substantive pay of Rs. 36/- while officiating as clerk till he completed two years' service as clerk and may draw Rs. 36-8-0 afterwards. This instruction, however, was not followed.

copy not filed

5. Again on 1-6-1936, he put in another application to the District Munsif, Udipi, praying (1) that the increment of Re. 1/- as Examiner may be drawn for him from 4-7-1933 treating the ~~xxxx~~ officiating service as clerk from 4-2-1933 to 21-4-1933 as counting for increments as Examiner and (2) that his pay as officiating clerk may be fixed at Rs. 36-8-0 from 25-10-1933 for reasons stated in his previous petition. The District Munsif Udipi on the ground that the claim was a petty one ordered that no action was necessary.

6. The dates of detection of the under-payment brought to the notice of the head of the office for purposes of payment of arrears of pay with reference to the note under Article 34 Madras Financial and Account Code, Volume I, inserted under G.O.No.105 Financial dated 21-3-1938 may therefore be taken as 20-12-1934 so far as the fixation of pay at Rs.36-8-0 from 25-10-1933 is concerned and as 1-6-1936 so far as the drawal of increment from 4-7-1933 is concerned. || (2)

7. The increments due to the clerk have since been sanctioned. I request that you will be so good as to investigate the claim for arrears of pay now made and intimate the result to me. || K

8. The clerk is clearly entitled to the arrears of pay now claimed. I recommend that the claim may be allowed in audit.

/True Copy/

17.11.40. District Judge S.K.

7

Copy of letter No. T-6-Jus- 1-1092 dated the 12th November 1940 from the Accountant General, Madras, (T.A.VI. Section), to the District Judge, South Kanara, Mangalore.

Ref:-, Letter Dis. No. 5796 dated 26-10-1940 regarding arrear claim of clerk A.I.Menezes.

As already pointed out in this office letter No. T.6-Jus.1-408, dated the 25th August 1939 to the District Munsif, Udipi, copy of which was forwarded to you, the sanction of Government is necessary for the investigation of the arrear claim in question.

(5) The supplemental pay bills with enclosures are herewith returned. The service book of the clerk is being returned separately by registered post and its receipt may kindly be acknowledged.

/True Copy/

District Judge. S. K.

17. 11. 40.

Home Department.

C.No.1774 E | From the High Court, Madras R.O.C.No.4104/40 D2
dated 16-1-41.

Estt. - Dt.Court, S.Kanara - A.I.Minezes - clerk - arrears of pay - claim - investigation by the Acct. General.

A.S.

In the circumstances stated ~~in his letter~~ in his letter on pages 3-4 c.f , the Dt. Judge, S.Kanara recommends that the Govt. may authorize the Accountant General to investigate the claim for arrears of pay made by A.I.Minezes, clerk, Dt.Court, S.Kanara. The High Court has supported the recommendation of the Dt. Judge.

2. The history of the service of A.I.Minezes will be found in paragraphs 2 & 3 of the copy of the Dt. Judge's letter to the Accountant General at pp.5-6 c.f. A detailed statement showing the claim for arrears of pay has been forwarded - cf. pp.1-2 of (J). The service register of the petitioner is also put up. It is reported that the A.G. has stated that the sanction of Govt. is necessary for investigation of the claim in this case - presumably because the claim relates to a period exceeding 3 years.

3. According to the orders in G.O.No.105 Finance dated 21-3-1938, the payment of arrear salaries should after investigation be normally restricted to the amount found actually due in respect of a period of one year immediately preceding the date of detection. The dates of detection in this case of the under payment brought to the notice of the head of the office for purposes of payment of arrears of pay have been fixed as 1-6-36 so far as the drawal of increment is concerned and as 20-12-34 so far as the fixation of pay at Rs.36-8-0 is concerned.and these are the dates on which the petitioner himself moved in the matter.- please see paras. 4 & 5 on page 6 c.f. It will be

petitioner was in no way responsible for the delay and that on the other hand, he had applied to the authorities sufficiently in time. The Dt. Judge himself has stated that the clerk is clearly entitled to the arrears of pay now claimed and that he should not be denied the payment of arrears of pay. For orders whether in the circumstances, the recommendation of the Dt. Judge and the High Court may be accepted and the A.G. authorised to investigate the claim and pay the arrears in full.

4 Finance may see for remarks.

27-1-41.

30/1

S 31.1.41.

Finance

Finance (CSR)

The history of the service of the clerk relevant to the claim for arrears of increments is as follows:-

Till 3-7-32	Permanent Amin (Rs 24)
4-7-32 to 3-2-33	Offg. Examiner on Rs 35 in the scale of Rs 35-1-40.
4-2-33 to 21-4-33	Offg. Clerk on Rs 35 in the scale of Rs 35, 35-1½-50-1-60.
22-4-33 to 24-10-33	Offg. Examiner (Rs 35-1-40)
25-10-33 onwards.	Offg. Clerk (Rs 35--60)

In an order dated 20-7-34 the clerk was confirmed as Examiner retrospectively from 11-7-33.

An increment of Re.1 as officiating Examiner due to the clerk from 4-7-33 was not given. His pay as clerk from 25-10-33 should have been Rs 36 (his substantive pay as Examiner) and he should have been allowed Rs 36-8-0 from the date he completed 2 years as clerk. This was also not given.

para 56 C.f.
para 7 - P 44 C.f.

P 44 C.f

14.

Home U-O - 1774 E-1
31-1-41

ASST. SECRETARY TO GOVERNMENT
31 JAN 1941
FINANCE DEPARTMENT

03393 C&R

Vide p. 3 C.f. and 5 para 4 of Home Book kept below.

para 2, p. 4 C.f.

Ibid

C.f para 3, p 4 C.f

2. Finance may agree to the A.G. being authorised to investigate the claim of the clerk and to refix his pay.

The question of sanctioning arrear increments, however, requires consideration. It is stated that the clerk asked for fixing his pay at Rs 36-8-0 on 20-12-34. The A.G. was consulted and his reply obtained; but it is stated that his instruction was not followed. What further action, if any, was taken by the clerk has not been stated. On 1-6-36, i.e. nearly 3 years after the increment was due, he asked for his increment of Re.1 from 4-7-33. The District Munsif held that the claim was petty and ordered that no action need be taken. The evidence of any further action in the matter is a letter from the A.G. dated 25-8-1939 referred to on p.7 C.F. It is not clear whether the matter has been under correspondence since 1934, and whether no orders were passed on the clerk's first petition dated 20-12-34. Unless this is the position in which case it may be held that the clerk was not at fault there is no justification to sanction full arrears. The Home Department may be requested to obtain information on the above and to ascertain how the inordinate delay was caused. Orders may be issued in advance, if necessary, on A above.

5-2-41

5.2.41 As no fault of the clerk that the A.G.'s instruction re refixation of pay was not followed. Full arrears may therefore be paid after investigation by the A.G. The rule of protection for purposes of fixation of pay & increments are accepted.

Home -

3925E
6.2.41

6-FEB.1941

Fin no. 3393 CSR
5.2.41

Home Depot.

A.S.

Please see the Finance department's note on pp. 2-3 ante. It is presumed that the intention is to authorise the A.G. to investigate the claim and re-fix the pay of the clerk at the correct rate and to pay him M - p3 ante. the arrears in full without reference to the dates of detection. In this view, a draft — of K - ibid. order is submd. for approval. Finance may see before issue.

8.2.41.

Fin (S.S.R.) Home U.O 1774E-2
12-2-41

Please see proviso to para. 3 ante.

The draft order may be issued.

Accepted

(sd) 12/2/41

All full arrears are to be paid the dates of detection are immaterial

Draft is accepted A.S.

12/2 Home.

Not Fin.

Fin no 4664 CSR-1
dt. 13.2.41

14 FEB. 1941

4880 F
14.2-41

Draft returned

ASST. SECRETARY TO GOVERNMENT
12 FEB 1941
FINANCE DEPARTMENT

04664

C.F. 16.

17/2 Date. Initials.

DRAFT FOR APPROVAL.

Home Dept.

SUBJECT :— Establishment - S. Kanara Dt. - Dt. court clerk - A. I. Menezes - investigation of arrears claims by the A.G. - ordered.

When received for fair copying .. 17/2

When copied ..

When examined..

When signed ..

When despatched.

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

C. No. 1774 E From the High Court, Madras Roc. No. 4104/40 A2 dated 16.1. 19 41. pp 1-2 enc.

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

Order/ ~~Resolution~~ Ms No. 782, dated 17-2- 19 41

Fr. 3 & 4 n.f.

c/f. A on 1160/Cas 490 (H) 31.1.43.

To

The Hon'ble the C.J (with cx & records at (J) & Govt Bk.)

The A.G. thro' the Jud. dept

The Jud. dept

The Accountant General is authorized to investigate the claim of A. I. Menezes, clerk, Dt. Court, South Kanara to arrears of pay, to refix the pay at the correct rate and to pay the arrears in full.

17/2

8.2.41.

env 8/2

Dy. No. 1774 Dt. 17.2.41

Dr. Jud. Dept.

Dr. Jud. Dept.

Dr. Jud. Dept.